

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DEFENDANT WILLIAM DALE BRYLES' MOTION TO DISMISS
ACTION FOR FAILURE TO COMPLY WITH ORDERS OF THE COURT
WITH BRIEF IN SUPPORT

COMES NOW Defendant, William Dale Bryles, by and through his attorney of record, Ronald "Skip" Kelly, and for his Motion to Dismiss Plaintiff's action for failure to comply with Orders of this Court, he respectfully presents to the Court as follows:

1. This matter is set on the Court's February 12, 2019, trial docket.
2. Further, this Court entered a scheduling order on January 30, 2018 [Doc. No. 34], in which, among other things, the Court ordered Plaintiff to file a list of expert witnesses in chief and submit expert reports by October 1, 2018. *See* Doc. No. 34, paragraph 3(a).
3. Plaintiff's counsel filed a Motion for an Extension of Time to file Plaintiff's list of experts and submit expert reports. *See* Doc. No. 56. The Court granted

Plaintiff's Motion and ordered that Plaintiff's expert list and reports be filed by October 31, 2018 [Doc. No. 57].

4. Moreover, the Court also ordered Plaintiff to file a final list of witnesses and exhibits by November 15, 2018. See Doc. No. 34, paragraph 4(a). In paragraph 16 of the Scheduling Order [Doc. No. 34], this Court ordered that a final pre-trial report be filed by January 30, 2019.
5. Following series of Motions to Withdraw as Attorney of record [Doc. Nos. 58, 60, and 63], and Orders granting leave to withdraw [Doc. Nos. 59, 61, and 64], this Court also ordered Plaintiff to either retain new counsel within twenty (20) days, or file an entry of appearance *in propria persona*. *See* Doc. No. 64. In paragraph 2 thereof, the Court ordered as a consequence of failing to file a timely entry of appearance *in propria persona*, that Plaintiff would "suffer dismissal of the action."
6. Defendant Bryles moves to dismiss this action pursuant to Fed. R. Civ. P. 16(f). This rule authorizes the Court to sanction Plaintiff for "fail[ing] to obey a scheduling or other pre-trial order." Fed. R. Civ. P. 16(f)(1)(C).
7. Plaintiff has not obeyed the scheduling order with respect to paragraph 3(a), 4(a), or 16. *See* Doc. No. 34. Moreover, Plaintiff has not complied with the Court's order [Doc. No. 57], directing her to file an entry of appearance *in propria persona* or suffer dismissal of the action.
8. Pursuant to Fed. R. Civ. P. 16(f)(2), Defendant Bryles is entitled to recover his reasonable attorney fees and costs herein.

WHEREFORE, premises considered, Defendant Bryles prays for dismissal of this action for the reasons stated above, for recovery of his reasonable attorney fees and costs, and for all such other relief as this Court deems just and equitable under the circumstances.

Respectfully Submitted,

s/ Ronald “Skip” Kelly
Ronald “Skip” Kelly, OBA # 4937
205 NW 63rd St., Ste. 150
Oklahoma City, OK 73116
(405) 235-1976: Tel
(405) 286-6316: Fax
kellyron01@yahoo.com

ATTORNEY FOR DEFENDANT BRYLES

CERTIFICATE OF SERVICE

I, Ronald “Skip” Kelly, hereby certify that on the 7th day of February, 2019, I delivered a true and correct copy of the foregoing via the CM/ECF system, to the following attorney who has been ordered to accept service on Plaintiff’s behalf:

Christopher S. Reser: creserlaw@sbcglobal.net

s/ Ronald “Skip” Kelly